

BEFORE THE BOARD OF PROFESSIONAL
ENGINEERS AND LAND SURVEYORS
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the proposed) NOTICE OF PUBLIC
amendment of ARM 24.183.702,) HEARING ON PROPOSED
pertaining to classification) AMENDMENT AND
of experience for professional) ADOPTION
engineer applicants, and the)
proposed adoption of NEW RULE I,)
pertaining to classification of)
experience for land surveying)
applicants, and NEW RULE II,)
pertaining to branch and project)
offices)

TO: All Concerned Persons

1. On June 28, 2004, at 9:00 p.m., a public hearing will be held in room 489, Park Avenue Building, 301 South Park, Helena, Montana to consider the proposed amendment and adoption of the above-stated rules.

2. The Department of Labor and Industry will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Professional Engineers and Land Surveyors no later than 5:00 p.m. on June 21, 2004, to advise us of the nature of the accommodation that you need. Please contact Todd Boucher, Board of Professional Engineers and Land Surveyors, 301 South Park, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2368; Montana Relay 1-800-253-4091; TDD (406) 444-2978; facsimile (406) 841-2309; e-mail dlibsdpel@state.mt.us.

3. On February 28, 2002, the Board previously proposed amendments to ARM 24.183.702 (formerly, ARM 8.48.507) and proposed the adoption of a NEW RULE I, pursuant to MAR Notice No. 8-48-24 at page 450, 2002 Montana Administrative Register, issue no. 4. Following the public comment period, the Board decided not to make the proposed amendments to ARM 8.48.507 or to adopt that new rule. In light of the comments made in 2002, the Board has substantially revised its draft of proposed NEW RULE I.

4. The rule proposed to be amended provides as follows, stricken matter interlined, new matter underlined:

24.183.702 CLASSIFICATION OF EXPERIENCE FOR PROFESSIONAL
ENGINEER APPLICANTS (1) Engineering experience ~~or land
surveying experience shall~~ must be gained under the
supervision of a licensed professional engineer or, if not, an

explanation must be made to show why the supervised experience should be considered as acceptable. Engineer experience must include the following:

(a) pre-professional experience pertains to experience gained after graduation and is of progressive experience, all of which is required to have been completed at the time of application. Credible experience may include one or more of the following:

(i) approved sub-professional experience (one year maximum credit given).

~~(a) Sub-professional experience is experience that is gained before graduation. This experience shall be credited to the required pre-professional experience at a maximum of one-half the period of experience. Credible experience may include:~~

~~(i) surveying experience, supervised;~~

~~(ii) engineering experience, supervised;~~

~~(iii) construction experience, supervised.~~

~~(b) Pre professional experience is four years of total progressive experience, all of which is required to be completed at the time of application. Credible experience may include:~~

~~(i) approved sub professional experience;~~

~~(ii) progressive experience on engineering/land surveying projects which indicate the experience is of increasing quality and required greater responsibility;~~

~~(iii) experience not obtained in violation of the licensure act;~~

~~(iv) experience gained under the supervision of a licensed professional engineer/land surveyor or, if not, an explanation of why the experience should be considered acceptable;~~

~~(v) credible teaching experience at an advanced level, post graduate or senior graduate, in a college or university offering an engineering curriculum of four years or more that is approved by the board. Land surveying teaching experience shall also be at an advanced level on a land surveying curriculum approved by the board;~~

~~(vi) experience gained in engineering research and design projects by members of an engineering faculty, in an engineering curriculum approved by the board; or~~

~~(vii) and (2) remain the same.~~

~~(3) Experience should be gained under the supervision of a registered professional engineer or, if not, an explanation should be made showing why the experience should be considered acceptable.~~

~~(4) remains the same but is renumbered (3).~~

~~(5) Land surveying experience must include a substantial portion spent in charge of work related to property conveyance and/or boundary line determination.~~

~~(6) Upon request by the board, land surveyor applicants must demonstrate adequate experience in the field aspects of the profession.~~

~~(a) Land survey experience such as section breakdowns,~~

~~retracing old boundaries, establishing new boundaries, corner search and re-establishment, calculations and preparations of certificates of surveys, deed searches and corner recordation, consists of work done under the supervision of a registered professional land surveyor.~~

~~(b) Other survey experience is survey work which may or may not be done under the supervision of a registered professional land surveyor. It includes such work as construction layout of buildings and miscellaneous structures; surveys necessary to obtain data and location of highways, roads, pipelines, canals, etc.; construction staking for land modification; and construction staking for highways, roads, utilities, etc.~~

AUTH: 37-1-131, 37-67-202, MCA
IMP: 37-67-306, ~~37-67-309~~, MCA

REASON: The Board has determined that there is reasonable necessity to amend the rule to delete references to land surveyors, and clarifying the scope of the rule. The proposed amendments more clearly identify the classification of the kinds of experience that are counted towards the experience required before an applicant can become licensed as a professional engineer. The Board is proposing to adopt NEW RULE I, Classification of Experience for Land Surveying Applicants. Finally, there is reasonable necessity to update the citations to the appropriate statutes authorizing the rule and being implemented by the rule.

5. The proposed new rules provide as follows:

NEW RULE I CLASSIFICATION OF EXPERIENCE FOR LAND SURVEYING APPLICANTS (1) Land surveying experience must include pre-professional experience. Qualified pre-professional experience is progressive experience, gained under the supervision of a licensed professional land surveyor, all of which is required to be completed at the time of application. Land surveying experience must include a substantial portion spent in charge of work related to property conveyance and/or boundary line determination. Credible experience may include one or more of the following:

(a) approved sub-professional experience. Sub-professional experience must be credited to the required pre-professional experience at a maximum of one-half the period of experience. Sub-professional experience must be limited to a maximum of four years to be credited as no more than two years of pre-professional experience. Credible sub-professional experience may include one or more of the following:

(i) survey experience done under the supervision of a licensed professional land surveyor, including such work as:

(A) construction layout of buildings and miscellaneous structures;

(B) surveys necessary to obtain data and location of highways, roads, pipelines, canals, etc.;

- (C) construction staking for land modification; and
 - (D) construction staking for highways, roads, utilities, etc;
 - (ii) other construction surveying experience supervised by a licensed professional land surveyor; or
 - (iii) other surveying experience supervised by a licensed professional land surveyor;
 - (b) progressive experience on land surveying projects which indicate the experience is of increasing quality and required greater responsibility;
 - (c) experience not obtained in violation of the licensure act;
 - (d) experience such as:
 - (i) aliquot part subdivision of sections;
 - (ii) retracing existing boundaries;
 - (iii) establishing new boundaries;
 - (iv) corner search and re-establishment;
 - (v) researching existing public records;
 - (vi) survey computations;
 - (vii) preparation of legal descriptions;
 - (viii) certificates of survey;
 - (ix) subdivision plats; and
 - (x) corner recordation forms, exhibits and other documents pertinent to such work; or
 - (e) credible teaching experience at an advanced level, post graduate or senior graduate, in a college or university offering a land surveying curriculum approved by the board, gained under the supervision of a licensed land surveyor.
- (2) Experience must be completed at the time of application. Experience time cannot be counted during periods counted for education.
- (3) Upon request by the board, land surveyor applicants must demonstrate adequate experience in the field aspects of the profession.

AUTH: 37-1-131, 37-67-202, MCA
IMP: 37-67-309, MCA

REASON: The board has determined there is reasonable necessity to adopt this rule to separate the provisions of ARM 24.183.702 into a rule for professional engineers and one for professional land surveyors, in order to improve clarity and decrease possible confusion by the applicants. These changes were proposed with MAR Notice No. 8-48-24 and substantial comments were received. Although theses comments were accepted by the board, a second public notice is being issued.

NEW RULE II BRANCH OFFICES AND PROJECT OFFICES (1) For the purposes of this rule, the following definitions apply:

- (a) "Branch office" means:
 - (i) with respect to an engineering firm offering engineering services, an office established to solicit and/or provide engineering services; or
 - (ii) with respect to a land survey firm offering

surveying services, an office established to solicit and/or provide land surveying services.

(b) "Professional engineer in residence" means a person holding a valid professional engineering license in Montana, and who is in responsible charge of engineering work performed in the branch office.

(c) "Professional land surveyor in residence" means a person holding a valid land surveying license in Montana, and who maintains a branch office as the land surveyor's normal place of business and is in responsible charge of land survey work performed in the branch office.

(d) "Project office" means a land survey office established to provide a workstation for a specific project, the use of which will not extend beyond the scope or duration of the specific project.

(2) Each branch office of an engineering firm must have a professional engineer in residence.

(3) Each branch office of a land surveying firm must have a professional land surveyor in residence.

(4) A professional land surveyor may serve as the professional land surveyor in residence at only one place of business.

(5) A project office is not required to have a professional land surveyor in residence, who is in responsible charge of the work performed at the project office. If a licensed professional land surveyor in residence is not in charge of a project office:

(a) no land surveying work other than the project work may be performed; and

(b) no new work may be solicited by a firm's unlicensed representative located at the project office.

AUTH: 37-1-131, 37-67-202, MCA

IMP: 37-67-320, MCA

REASON: The Board has determined that there is reasonable necessity to adopt this rule to clarify the requirements when operating branch and project offices by engineering and land surveyors. Furthermore, this rule is to make certain all acts, which constitute the practice of engineering or land surveying, are adequately supervised and effectively managed by licensed individuals.

6. Concerned persons may present their data, views or arguments either orally or in writing at the hearing. Written data, views or arguments may also be submitted to the Board of Professional Engineers and Land Surveyors, 301 South Park, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2309, or by e-mail to dlibsdpel@state.mt.us and must be received no later than 5:00 p.m., July 9, 2004.

7. An electronic copy of this Notice of Public Hearing is available through the department's site on the World Wide Web at <http://discoveringmontana.com/dli/bsd> under the Board

of Professional Engineers and Land Surveyors rule notice section. The department strives to make the electronic copy of this notice conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version, only the official printed text will be considered. In addition, although the department strives to keep its website accessible at all times, concerned persons should be aware that the website may be unavailable during some periods, due to system maintenance or technical problems, and that a person's technical difficulties in accessing or posting to the comment forum do not excuse late submission of comments.

8. The Board of Professional Engineers and Land Surveyors maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by the board. Persons who wish to have their name included on the list shall make a written request that includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding all Board of Professional Engineers and Land Surveyors administrative rulemaking proceedings. Such written request may be mailed or delivered to the Board of Professional Engineers and Land Surveyors, 301 S. Park, P.O. Box 200513, Helena, Montana 59620-0513, faxed to the office at (406) 841-2309, e-mailed to dlibsdpel@state.mt.us or may be made by completing a request form at any rules hearing held by the agency.

9. The Board of Professional Engineers and Land Surveyors will meet on August 19, 2004, at its regularly scheduled meeting, to consider comments made by the public, the proposed responses to those comments and to take final action on the proposed amendment and new rules. Members of the public are welcome to attend the meeting and listen to the board's deliberations.

10. The bill sponsor requirements at 2-4-302, MCA, do not apply.

11. Lon Mitchell, attorney, has been designated to preside over and conduct this hearing.

BOARD OF PROFESSIONAL ENGINEERS
AND LAND SURVEYORS
JANET MARKLE, PRESIDING OFFICER

/s/ WENDY J. KEATING
Wendy J. Keating, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

/s/ MARK CADWALLADER
Mark Cadwallader
Alternate Rule Reviewer

Certified to the Secretary of State May 24, 2004